IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.3969 OF 1994

Shri Mahavir Babu Sanadi — Petitioner
Vs.
The Executive Magistrate, Shirol
and ors. — Respondents

Mr.Vijay Killedaar h/f. Mr.Nitin Jamdar for petitioner.

Mrs.S.S.Bhende, AGP for Resp.Nos.1, 2 and 5.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

May 03, 2006.

P.C.

1. Being aggrieved by the decision of the Committee for Scrutiny and Verification of Tribe Claims at Pune rendered on 31/5/1994 the petitioner has approached us and by the said order impugned the caste certificate dated 3/6/1978 issued by the Tahsildar, Shirol and the caste certificate dated 8/2/1985 issued in favour of the petitioner by the Executive Magistrate, Shirol have been cancelled and thus the petitioner's claim that he belongs to Tokre Koli scheduled tribe has been determined against him.

2. The petitioner was born on 1/6/1967 at Akiwat, Taluka Shirol, Dist. Kolhapur. He was admitted in Walchand College of Engineering at Sangli to the

Diploma in Civil Engineering course and on completion of the same he came to be appointed as Junior Engineer at Hatkanangale in 1985. It appears that he was appointed in the post reserved for scheduled tribe and, therefore, the Education Officer by his letter dated 11/9/1987 forwarded his claim for verification and by letter dated 7/3/1994 he was called upon to remain present before the Scrutiny Committee. It appears that the Education Officer had an occasion to refer to the petitioner's caste claim to the Scrutiny Committee as he had applied for the post of teacher which post he did not join and he instead joined with the Panchayat Samiti, Hatkanangale. By the impugned order the Scrutiny Committee considered in all following five documents submitted by the petitioner in support of the tribe's claim:

(i) School leaving certificate dated 20/8/1987 issued by the Head Master, Shri Vidyasagar High School, Akiwat, Dist. Kolhapur in favour of the petitioner.

(ii) College leaving certificate dated 24/8/1992 issued by the Principal, Walchand

College of Engineering at Sangli in favour of the petitioner.

(iii) Caste certificate dated 8/2/1985 issued by the Executive Magistrate, Shirol in favour of the petitioner.

(iv) Caste certificate dated 3/6/1978 issued by the Tahsildar, Shirol, in favour of the petitioner's father, and

(v) 7/12 extract issued by the Gaonkamgar, Talathi Mouje Akiwat, Taluka Shirol.

3. The Scrutiny Committee had given opportunity to the petitioner for personal hearing so as to furnish information regarding the traits, characteristics, customs, rituals etc. and he had submitted the following information regarding the same as followed by his community:

(a) Koli is the main caste while Tokre Koli and Mahadeo Koli are sub groups of Koli caste.

(b) The surnames of his community are Koli and Taral only.

(c) The dialect of his community was treated to be Kanadi (Kannada).

(d) The traditional occupation of his community was to fill water in the marriages and for this work they were getting remuneration in the form of food grains, and

(e) Walmiki Rishi is the great saint from his community.

4. The Scrutiny Committee considered the petitioner's claim on the basis of the information submitted regarding the traits, characteristics, customs and rituals etc. and found that his community was the same as the Koli caste. Undoubtedly, the caste "Koli" is recognised as other backward class.

5. So far as the documentary proof is concerned, it is clear that the three certificates which were

pertaining to the petitioner himself, his caste was noted as "Hindu Koli" and his father's caste certificate stated that he belongs to Tokre Koli caste listed at Sr.No.78 in the Presidential Order, for Scheduled Tribes. This document issued for the first time on 3/6/1978 cannot be the sole proof in favour of the petitioner's claim of belonging to Scheduled Tribe Tokre Koli. It is clear from the said document that it was issued on the basis of two documents viz. the certificate issued by the village officer of Akiwat and the affidavit sworn by the petitioner's father on 25/5/1978. The Scrutiny Committee, therefore, held that the school leaving certificate and the college leaving certificate had clearly stated that the petitioner belongs to "Hindu Koli" and such a caste is not listed in the Presidential Order for Scheduled Tribes issued in 1976. It appears that the petitioner's father, like many others who belonged to the Koli caste, tried to take benefit of belonging to Schedule Tribe after the 1976 Presidential Order was issued. The synonimity of Scheduled Castes and Scheduled Tribes has been considered by the Constitution Bench in the case of State of Mahaarashtra Vs. Milind & ors. **[AIR 2001 SC 393]** and entries in the Presidential Order shall

have to be read as they appear and, therefore, the petitioner's contention that Tokre Koli is the branch of Koli caste or Koli is the main caste and Tokre Koli and Mahadeo Koli actually are the sub-groups of the main Koli caste cannot be accepted. This is an issue which is governed by the law laid down by the Apex Court in the above case.

6. In the premises we do not find any reason to cause interference in the impugned order of the Scrutiny Committee by exercising powers under Articles 226 and 227 of the Constitution and, therefore, this petition fails. The same is hereby dismissed. Rule discharged.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)